

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION (CINCINNATI)**

MARIO FREEMAN,	:	Case No. 1:23-cv-00270
	:	
Plaintiff,	:	District Judge Douglas R. Cole
	:	Magistrate Judge Caroline H. Gentry
vs.	:	
	:	
OHIO DEPARTMENT OF	:	
REHABILITATION AND	:	
CORRECTIONS,	:	
	:	
Defendant.	:	

REPORT AND RECOMMENDATION

This matter is before the Court following Plaintiff's failure either to pay the \$402 filing fee required to commence an action or to file an application to proceed *in forma pauperis*. On May 17, 2023, the Court notified Plaintiff of this deficiency and ordered that he either pay the fee or submit such an application within thirty days. (ECF No. 2.) The Court further cautioned Plaintiff "that if he fails to comply with this Order, this case will be dismissed for lack of prosecution." (*Id.* at PageID 7.) The thirty-day deadline has now passed, and Plaintiff has not complied with the Court's order.

Plaintiff's failure to prosecute this matter and to obey an Order of the Court warrants dismissal of this case pursuant to Fed. R. Civ. P. 41(b). *See Jourdan v. Jabe*, 951 F.2d 108, 109-10 (6th Cir. 1991). District courts have the power to *sua sponte* dismiss civil actions for want of prosecution to "manage their own affairs so as to achieve the orderly and expeditious disposition of cases." *Link v. Wabash R.R.*, 370 U.S. 626,

630–31 (1962). *See also Jourdan*, 951 F.2d at 109. Though Plaintiff is proceeding *pro se*, the Supreme Court “[has] never suggested that procedural rules in ordinary civil litigation should be interpreted so as to excuse mistakes by those who proceed without counsel.” *McNeil v. United States*, 508 U.S. 106, 113 (1993).

Accordingly, the undersigned Magistrate Judge **RECOMMENDS** that this matter be dismissed without prejudice for failure to prosecute.

IT IS SO RECOMMENDED.

/s/ Caroline H. Gentry

Caroline H. Gentry
United States Magistrate Judge

Procedure on Objections

If any party objects to this Report and Recommendation (Report), that party may, within fourteen (14) days of the date that this Report was filed, file and serve written objections to specific findings or recommendations along with supporting authority for the objection(s). Responses to objections are due ten days after objections are filed and replies by the objecting party are due seven days thereafter. A District Judge will then make a *de novo* determination of the portions of the report, findings, or recommendations to which objection is made. The District Judge may accept, reject, or modify, in whole or in part, this Court’s findings or recommendations, may receive further evidence, or may recommit this matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

The parties are advised that a failure to object to the Report will result in a waiver of a party’s right (1) to have the District Judge review the Report *de novo* and (2) to

appeal a decision of the District Court adopting the Report. *See Thomas v. Arn*, 474 U.S. 140 (1985); *U.S. v. Walters*, 638 F.2d 947 (6th Cir. 1981).